

**STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES
Before the Commissioner of Financial and Insurance Services**

In the matter of:

**Equity Consultants, LLC
4816 Brecksville Road, Suite 8
Richfield, Ohio 44286**

Enforcement Case No. 04-2805

License No. FL-3137

Rade Marich, Sole Member

Respondents

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**Issued and entered
this 5th day of August, 2004
by Linda A. Watters
Commissioner of Financial and Insurance Services**

CONSENT ORDER

**I
BACKGROUND**

Equity Consultants, LLC (“Equity Consultants”) is a Michigan-domiciled limited liability company that is licensed as a mortgage broker under the Mortgage Brokers, Lenders, and Servicers Licensing Act (“MBLSLA”), Act No. 173 of 1987, as amended, MCL 445.1651 *et seq.* Equity Consultants has made application for registration as a mortgage broker under the Secondary Mortgage Loan Act (“SMLA”), Act No. 125 of 1981, as amended, MCL 493.51 *et seq.* Rade Marich is the sole member of Equity Consultants. In reviewing Equity Consultants’ application, Michigan Office of Financial and Insurance Services (“OFIS”) staff determined that

Respondent had transferred more than 25% of the ownership of Equity Consultants prior to, and without requesting, the consent of the commissioner in violation of Section 9 of the MBLSLA. Respondent and OFIS staff have conferred and have agreed to resolve this matter according to the terms set forth below.

II FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent was issued a mortgage broker license by OFIS on December 30, 2002 pursuant to the provisions of the MBLSLA.
2. On or about February 14, 2003, Respondent requested the commissioner's approval to transfer ownership of the company from Rade Marich as sole owner, to Rade Marich, 5% owner, and Goran Marich, 95% owner.
3. The sale transaction took place on December 10, 2002 (prior to the approval and issuance of the mortgage broker license), but notification was not provided to OFIS until February 14, 2003.
4. Respondent violated Section 9 of the MBLSLA, MCL 445.1659, which provides as follows:

A license shall not be transferred or assigned without the consent of the commissioner. The sale, transfer, assignment, or conveyance of more than 25% of the outstanding voting stock of a licensee which is a corporation, or more than 25% of the interest in a licensee which is a partnership or other unincorporated association, shall be considered to be a transfer of the license. A registration shall not be transferred or assigned.

5. Subsequent to the transfer request, Respondent submitted an amendment request to change its first mortgage license from a broker only to a broker and lender, and amend the pending second mortgage application from a broker only to a broker and lender. The amendment requests are pending resolution of the Respondent's stock transfer.

III APPLICABLE LAW AND PENALTIES

The foregoing findings of fact indicate that a violation of the MBLSLA has occurred.

Accordingly, it is recommended that appropriate civil and administrative penalties be imposed on Respondent pursuant to the powers vested in the commissioner under the MBLSLA.

The following provisions are relevant and applicable to this case:

Section 11 of the MBLSLA, MCL 445.1661, provides:

- (1) The commissioner shall exercise general supervision and control over mortgage brokers, mortgage lenders, and mortgage servicers doing business in this state.
- (2) In addition to the other powers granted to the commissioner by this act, the commissioner shall have all of the following powers:
 - (a) To promulgate reasonable rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, as necessary to implement and administer this act.
 - (b) To deny an application for a license.
 - (c) To conduct examinations and investigations of any person as necessary for the efficient enforcement of this act and the rules promulgated under this act.
 - (d) To advise the attorney general or the prosecuting attorney of the county in which the business is conducted that the commissioner believes a licensee, registrant, or person is violating this act. The attorney general or prosecuting attorney may take appropriate legal action to enjoin the operation of the business or prosecute violations of this act.
 - (e) To bring an action in the Ingham county circuit court in the name and on behalf of this state against the licensee, registrant, or any other person who is participating in, or about to participate in, any unsafe or injurious practice or act in violation of this act or a rule promulgated under this act, to enjoin the person from participating in or continuing the practice or engaging in the act.
 - (f) To order a person to cease and desist from a violation of this act or a rule promulgated under this act in accordance with section 16.
 - (g) To suspend or revoke a license or registration in accordance with section 29.
 - (h) To require that restitution be made in accordance with section 29.
 - (i) To assess a civil fine in accordance with section 29.
 - (j) To censure a licensee or registrant.
 - (k) To issue an order to prohibit a person from being employed by, an agent of, or control person of a licensee or registrant as provided under section 18a.

Section 29 of the MBLSLA, MCL 445.1679, provides, in pertinent part:

- (2) If the commissioner finds that a licensee or registrant has violated this act or the rules promulgated under this act, the commissioner may do 1 or more of the following:
- (a) Assess a civil fine against the licensee, registrant, or a person who controls the licensee or registrant of not more than \$1,000.00 for each violation, except that the licensee, registrant, or a person shall not be fined more than \$10,000.00 for a transaction resulting in more than 1 violation, plus the costs of investigation.
 - (b) Suspend or revoke a license or registration or refuse to issue a license or renew a license or registration.
 - (c) Require the licensee or registrant or a person who controls the licensee or registrant to make restitution to each injured individual, if the commissioner finds that the violation of this act or a rule promulgated under this act resulted in an injury to 1 or more individuals.
- (3) A civil fine assessed under subsection (2) may be sued for and recovered by and in the name of the commissioner and may be collected and enforced by summary proceedings by the attorney general. Each individual injured by a violation of this act or a rule shall constitute a separate violation. In determining under subsection (2) the amount of a fine, whether to suspend or revoke a license or registration, whether to refuse to issue or renew a license, or the amount of restitution, the commissioner shall consider the extent to which the violation was a knowing and willful violation, the extent of the injury suffered because of the violation, the corrective action taken by the licensee or registrant to ensure that the violation will not be repeated, and the record of the licensee or registrant in complying with this act. Any proceedings under this subsection shall be subject to the procedures of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.
- (4) Subsection (2) does not apply to a violation of this act that results from a bona fide error that occurs notwithstanding the adoption and observance of reasonable procedures intended to prevent the occurrence of the error.

III ORDER

It is ORDERED that:

1. Respondent shall cease and desist violating section 9 of the MBLSLA and section 13 of the SMLA.
2. Respondent shall pay to the Office of Financial and Insurance Services an applicable civil penalty of \$1,000.00.
3. Respondent shall maintain a program to monitor and ensure compliance

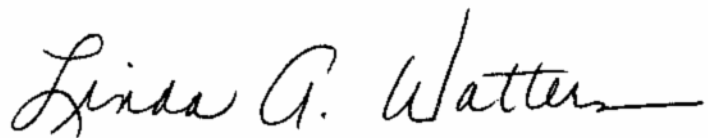
with all state and federal consumer laws and regulations relating to all mortgage activity conducted by Respondent.

4. Respondent shall educate itself and all employees of Respondent with respect to all state and federal consumer laws and regulations, including the MBLSLA and SMLA.

5. Respondent shall designate a compliance officer, and notify the Office of Financial and Insurance Services of the compliance officer's name and business address, to ensure that Respondent is in compliance with all applicable state and federal laws. Respondent shall notify the Office of Financial and Insurance Services of any change in designation of the compliance officer within 30 days of such re-designation.

6. Respondent shall submit, in a timely manner, all information as required to complete and process its request to transfer stock, amend its first mortgage license, and complete its request for a second mortgage registration.

The Commissioner retains jurisdiction over the matters contained herein and has the authority to issue such further order(s) as she shall deem just, necessary and appropriate in accordance with the provisions of the MBLSLA. Failure by Respondent to abide by the terms and provisions of this Order may result in the commencement of additional proceedings.

A handwritten signature in black ink, reading "Linda A. Watters" with a stylized flourish at the end.

Linda A. Watters

Commissioner of Financial and Insurance Services